

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

WILLIAM W. PARSLEY,)	
)	
Petitioner,)	
)	
vs.)	No. 4:05CV1219-SNL
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On February 22, 2001 petitioner was sentenced to the custody of the Bureau of Prisons for a term of 262 months.

On October 22, 2004 the Court denied petitioner's motion to vacate, pursuant to 28 U.S.C. § 2255 as time-barred. On June 13, 2005 the United States Court of Appeals for the Eighth Circuit denied petitioner's application for a certificate of appealability.

On July 27, 2005 petitioner filed another motion to vacate pursuant to 28 U.S.C. § 2255 and requested to supplement that motion October 24, 2005. The government has responded and petitioner has filed objection to the government's response.

The petitioner's present motion and supplementation alleges the same request for relief as was alleged in the original motion which was denied by this Court. As previously stated and reiterated here, the motion is untimely pursuant to 28 U.S.C. § 2255 (1). Petitioner asserts his counsel was ineffective, in addition, because he did not appeal his sentence as petitioner directed him to do. He states he was not made aware of this until September 2004 and thus, there is a basis for equitable tolling of the limitation period. Attached to the response of the United States is an affidavit of petitioner's counsel, Lawrence O. Willbrand,

stating petitioner did not direct him to file an appeal at any time. At this point, it is simply petitioner's word against that of his counsel. The Court gives more weight to counsel's statement as the plea agreement provided that the parties waived all rights to appeal. This Court stressed that point with petitioner at the time the plea was entered, and petitioner was aware of the waiver. Accordingly, the Court finds there was no tolling of the limitation period.

In addition, petitioner has not sustained his burden of showing that his counsel was ineffective as was discussed more thoroughly in this Court's initial ruling.

IT IS THEREFORE ORDERED that petitioner's motion filed July 27, 2005 and supplemented October 24, 2005 pursuant to 28 U.S.C. § 2255 is **DENIED**.

Dated this 12th day of April, 2006.



SENIOR UNITED STATES DISTRICT JUDGE